



ATLANTA

CINCINNATI

COLUMBUS

NEW YORK

CHICAGO

CLEVELAND

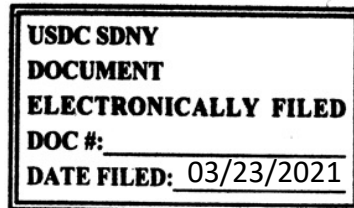
DAYTON

WASHINGTON, D.C.

March 22, 2021

VIA ECF

Hon. Katharine H. Parker
 United States Magistrate Judge
 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street
 New York, New York 10007



APPLICATION GRANTED

Katharine H. Parker
 Hon. Katharine H. Parker, U.S.M.J.

Re: *Spectrum Dynamics Medical Limited v. General Electric Company, et al.*, 03/23/2021
 Case No.: 18-cv-11386 (VSB)

Dear Judge Parker:

We represent Defendant General Electric Company (“GE”) in the above-captioned matter.. On behalf of GE and Plaintiff Spectrum Dynamics Medical Limited, we write pursuant to Federal Rule of Civil Procedure 5.2(e), Your Honor’s Individual Rule of Practice III(d), and the parties’ Stipulated Confidentiality and Protective Order (the “Protective Order”) (Doc. 156) to request that several passages contained in Document Number 200, the transcript of the parties’ appearance before Your Honor on February 25, 2021, be redacted and filed under seal. The parties jointly respectfully request that before the transcript is made publicly available, the court reporter be directed to redact the passages highlighted on pages 6-8, 10, 16-17, 21, 25-34, and 37, as set forth in Exhibit 1 hereto.

The presumption of public access to judicial documents can be overcome if countervailing factors warrant confidentiality. *See Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 120 (2d Cir. 2006); *see also Nixon v. Warner Commc’ns Inc.*, 435 U.S. 589, 598 (1978). Sealing of records may be justified to preserve “higher values,” including the need to protect an entity from competitive injury. *Lugosch*, 435 F.3d at 124; *see also Tropical Sails Corp. v. Yext, Inc.*, No. 14-cv-7582, 2016 U.S. Dist. LEXIS 49029, at *10-11 (S.D.N.Y. Apr. 12) (risk of “competitive injury is sufficiently serious to warrant protection” of proprietary business information). Consistent with this, courts routinely permit sealing and redaction of competitively sensitive proprietary business information. *See, e.g., Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015); *Encyclopedia Brown Prods., Ltd. v. Home Box Office, Inc.*, 26 F. Supp. 2d 606, 614 (S.D.N.Y. 1998); *see also Nixon*, 435 U.S. at 598 (recognizing need to seal information that might “harm a litigant’s competitive standing”).

Here, the discussions in the transcript concern GE’s development of a certain product that is not publicly available and confidential details of Spectrum’s alleged trade secrets. This information is competitively sensitive and proprietary information of GE or Spectrum, respectively, that, if disclosed, would pose a substantial risk of harm to GE or Spectrum, and constitutes “Highly Confidential – Attorneys’ Eyes Only” information under the Protective Order. (Doc. 156.). This is the sort of competitively sensitive information that courts consistently protect

Marla.Butler@ThompsonHine.com Fax: 404.541.2905 Phone: 404.407.3680



Page 2

from disclosure. *See, e.g., Ferring B.V. v. Allergan, Inc.*, No. 12-cv-2650, 2017 U.S. Dist. LEXIS 150239, at *16 (S.D.N.Y. Sep. 7) (granting motion to seal documents containing proprietary information related to product development); *Encyclopedia Brown*, 26 F. Supp. 2d at 612 (sealing documents reflecting sensitive trade secret information). This is particularly the case where, as here, the information to be sealed was not relevant to the Court's resolution of any issue. *Cf. Bernstein v. Bernstein Litowitz Berger & Grossman LLP*, 814 F. 3d 132, 143 (2d Cir. 2016) (denying sealing request where documents were "highly relevant to the exercise of Article III judicial power").

The parties' request is narrowly tailored to protect highly confidential information and does not deprive the public of access to critical information. The parties respectfully request that the Court permit the requested redactions in the publicly available version of the February 25, 2021 transcript (Doc. 200).



Page 3

Very truly yours,

/s/ Marla R. Butler

THOMPSON HINE LLP

Marla R. Butler

Carl Wesolowski (*pro hac vice*)

Lauren Hogan (*pro hac vice*)

Two Alliance Center

3560 Lenox Road NE, Suite 1600

Atlanta, Georgia 30326

Tel.: (404) 541-2900

Fax: (404) 541-2905

Marla.Butler@ThompsonHine.com

Carl.Wesolowski@ThompsonHine.com

Lauren.Hogan@ThompsonHine.com

Brian Lanciault

335 Madison Avenue, 12th Floor

New York, New York 10017

Tel.: (212) 344-5680

Fax: (212) 344-6101

Brian.Lanciault@ThompsonHine.com

Jesse Jenike-Godshalk (*pro hac vice*)

312 Walnut Street, Suite 1400

Cincinnati, Ohio 45202

Tel.: (513) 352-6700

Fax: (513) 241-4771

Jesse.Godshalk@ThompsonHine.com

Jeffrey Metzcar

Discovery Place

10050 Innovation Drive

Miamisburg, Ohio 45342

Tel. (937) 443-6841

Fax (937) 430-3781

Jeff.Metzcar@thompsonhine.com

Attorneys for Defendants

General Electric Company, GE Healthcare,

Inc., GE Medical Systems Israel Ltd., Jean-

Paul Bouhnik, Sergio Steinfeld,

Arie Escho, and Nathan Hermony and for Non-

Party Yaron Hefetz

cc: All Counsel of Record via ECF